



POLICY

UNDER SECRETARY OF DEFENSE
Approved For Release 2006/01/12 : CIA-RDP87B01034R000500180053-4

WASHINGTON, D.C. 20301

27 AUG 1981

MEMORANDUM FOR THE DIRECTOR, DEFENSE INTELLIGENCE AGENCY

Subject: Nondisclosure Agreement(NdA) for Sensitive
Compartmented Information (SCI)

The Director of Central Intelligence(DCI) has determined that there is a requirement to use a NdA covering SCI. He has devised a NdA known as Form 4193 and made it available to members of the Intelligence Community for their use. It is the policy of the DCI that a NdA will be signed by all persons gaining access to SCI or to Special Access Programs involving sensitive intelligence sources and methods, and by all persons who hold such accesses already. Persons declining to sign a NdA will not be given access to SCI. Failure to sign by a person having access already does not relieve that person of any responsibilities or limitations assumed by swearing to or affirming a security oath and will be cause for removal of SCI access for the refusing individual.

The Department of Defense will implement this DCI policy in order to ensure that its personnel with access to information produced by another agency that falls within the purview of the agreement will be held accountable for improper use of or actions concerning the information; to ensure that there is no "double standard" by which persons of particular stature or position may be exempted from the conditions of the NdA; and, to ensure that the Department follows the United States Attorney General's guideline that no prosecutive action will be taken against someone accused of unauthorized disclosure of classified material or information if that person has not signed some form of nondisclosure agreement.

While it may appear that the NdA constitutes a new condition of employment for persons with access to SCI, it unquestionably is a specific requirement which continuing employment under such circumstances imposes in an area of compelling national interest. The sensitive nature of the information involved and the dangers to the security of the nation, if released compel adoption of a system which will insure the strictest safeguarding of the SCI. Despite a possible question regarding an individual's right to retain employment upon his refusal to execute the NdA, I believe we should proceed to implement its use given the overriding national security considerations.

On file OSD release instructions apply.

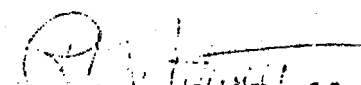
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Each department or agency must be able to guarantee without delay, the existence of the Nda to other concerned organizations, especially the Department of Justice. And, to fulfill its functions, the Nda must be held as long as its signer is physically capable of violating it, that is while the signer lives. Retention, then, must cover the reasonable life expectancy of the population involved. Therefore, the signed Nda must be maintained for 70 years or until after the death of the signer. The Nda can be retained in its original form or in copy form as long as it is certifiable as representative of the original Nda signed by the person indoctrinated for access to SCI. Retention in other than paper form, e.g., microform, must be in accordance with the Federal Property Management Regulations (41 C.F.R. 101-11). Specific procedures for storage in accordance with these general guidelines can be arranged among the implementing departments and agencies.

The Nda requires that each person indoctrinated for SCI submit anything that might relate to SCI for security review prior to its disclosure to the public. The agencies and the military departments within the Department of Defense will be required to implement such policy appropriately, to ensure that each submission for security review is staffed properly to the entity with principal interest in the information submitted for security review, and to ensure that a response is provided within 30 days of the receipt of the request. Procedures for appeal to the head of the agency or the Secretary of the Military Department concerned must be clearly specified in the implementing directives. Following security review by the appropriate defense agency or military department, there is an additional and unrelated requirement---compliance with the provisions of DoD Directive 5230.9 of 24 December 1966, Subject: "Clearance of Department of Defense Public Information". This additional clearance is not required, however, unless material qualifies for submission under criteria prescribed in that directive.

This policy will be included in DoD Directive 5200.17(M-2) and other appropriate directives pertaining to the control of SCI pending their revision.


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General, USA (Ret.)
Deputy

Copy to:

Director, National Security Agency